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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

ADAMS *v.* CUMBY.

Jan. 12, 1911.

[70 S. E. 3.]

Ejectment (§ 94*)—Verdict—Evidence.—In ejectment to recover certain land as a part of a city lot, evidence with reference to the location of the boundary thereof held insufficient to sustain a verdict for plaintiff.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. § 279; Dec. Dig. § 94.* 4 Va.-W. Va. Enc. Dig. 904, 910; 14 id. 368.]

Error to Corporation Court of Lynchburg.

Ejectment by Mary Ida Cumby against Ella M. Adams. From a judgment in favor of plaintiff, defendant brings error. Reversed.

F. S. Kirkpatrick and *A. S. Hester*, for plaintiff in error.

W. M. Murrell, for defendant in error.

CASSELMAN *v.* BIALAS.

March 9, 1911.

[70 S. E. 479.]

1. Ejectment (§ 15*)—Tracing Title.—Where plaintiff in ejectment claimed title through defendant, and produced a deed from the latter to him conveying the fee simple title, and both parties derived title from a common source, plaintiff was not bound to trace his title further.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. §§ 59-62; Dec. Dig. § 15.* 4 Va.-W. Va. Enc. Dig. 882.]

2. Ejectment (§ 17*)—Right of Possession.—While plaintiff must show a legal title in himself and a present right of possession under such title, as required by Code 1904, § 2725, yet, in the absence of evidence to the contrary, it was sufficient where plaintiff showed right of possession by introducing a deed of the fee simple to himself from defendant, and proving a demand for possession.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. §§ 63, 64; Dec. Dig. § 17.* 4 Va.-W. Va. Enc. Dig. 883.]

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

3. Ejectment (§ 27*)—Defenses—Equitable Estoppel.—An equitable estoppel cannot be set up as a defense in ejectment.

[Ed. Note.—For other cases, see Ejectment, Cent. Dig. § 114; Dec. Dig. § 27.* 1 Va.-W. Va. Enc. Dig. 153.]

Error to Circuit Court, Henrico County.

Action by R. F. Bialas against Lawrence Casselman and another. Judgment for plaintiff, and defendants appeal. Affirmed.

Sam. A. Anderson and *Alex. H. Sands*, for appellant.

A. B. Dickinson and *Charles Poe*, for appellee.

CABIN BRANCH MINING CO. *v.* HUTCHINSON'S ADM'X.

March 9, 1911.

[70 S. E. 480.]

1. Master and Servant (§ 125*)—Death of Servant—Mining—Notice to Pit Boss.—Where decedent's fellow servant on the afternoon preceding the night on which decedent was killed by a slide from the wall of a mine acquired knowledge of the danger, and on the night of the accident such fellow servant was appointed pit boss and placed in charge of the shift in which decedent was employed, the master was charged with notice of the danger so previously acquired by the pit boss while acting as decedent's fellow servant, under the rule that knowledge acquired by an agent prior to the existence of the agency will be chargeable to the principal, if it is clearly shown that the agent while acting for the principal in a transaction to which the information is material has the information present in his mind.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. § 251; Dec. Dig. § 125.* 1 Va.-W. Va. Enc. Dig. 276.]

2. Master and Servant (§ 293*)—Death of Servant—Safe Place—Instructions.—An instruction that it was the master's duty to exercise ordinary care to provide a reasonably safe place in which the injured servant was required to work, and that if the jury believed from the evidence that the place where the servant was required to work was not reasonably safe, and he was ignorant of the fact, and and could not by ordinary care have discovered the danger, it was defendant's duty to inform him, and, in the absence of an official of higher grade, that duty devolved on the mine boss under whom the servant was working, was erroneous, as in effect making the master responsible at all events for the reasonable safety of the place, and also as imposing on the master the duty of informing the servant of the danger, though the master may have had no

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.